IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 10525 of 2004

For Approval and Signature:

HON'BLE MR.JUSTICE K.S.JHAVERI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

YASIN AHMEDBHAI PATEL

Versus

REGIONAL PASSPORT OFFICE,

Appearance:

1. Special Civil Application No. 10525 of 2004

MR MAHENDRA K PATEL for Petitioner No. 1

MR MA SHAIKH for Respondent No. 1

DS AFF.NOT FILED (R) for Respondent No. 2-3

CORAM : HON'BLE MR.JUSTICE K.S.JHAVERI

Date of decision: 05/11/2004

ORAL JUDGEMENT

Leave to amend.

1. The petitioner has preferred this petition in order to challenge the action of the respondent authorities, whereby, the respondent authorities have withheld the passport of the son of the petitioner since the year 1998.

2. The son of the petitioner herein was issued with passport on 13/08/1997 and the said passport is valid upto 12/08/2007. On the basis of the said passport, the son of the petitioner as well as his family, had visited foreign countries. On their return to India, the concerned police authority, under instructions from respondent no.3 herein, withheld the passport of the son of the petitioner. Since the year 1998, the said passport of the son of the petitioner is lying with the passport authority.

3. Feeling aggrieved by aforesaid action of the respondent authorities. the petitioner has preferred this petition before this Court.

4. Mr.Patel for the petitioner has submitted that there was no question of withholding the passport of the son of the petitioner after the same was issued by the respondent authority. He has submitted that if at all there was any formality to be completed with respect to the said passport, then the authority could have completed the same within a reasonable period. By withholding the passport of the son of the petitioner for almost five years, great inconvenience has been caused to the petitioner, as the petitioner may have to go out of the country, along with his family, at any point of time.

5. Mr.Patel has further submitted that when the son of the petitioner was issued with the passport in question, he was aged only 5 years. Therefore, there was no question of conducting any inquiry, etc. as was stated by the police authorities while assigning reasons for withholding the passport of the petitioner. He has submitted that no offence of any nature whatsoever has been registered against the son of the petitioner.

6. I have heard learned counsel for the respective parties. Considering the fact that the son of the petitioner was aged only 5 years when the passport in question was issued to him and that the family of the petitioner may have to go out of the country at any point of time, the respondent authorities ought to have returned the passport to the petitioner within a reasonable period, after completing the necessary formalities. The respondent authorities have not assigned any reasons for withholding the passport of the son of the petitioner for such a long period of almost five years. Moreover, no offence of any nature whatsoever has been registered against the son of the petitioner. Hence, the respondent authority ought to

have returned the passport of the son of the petitioner.

7. In view of the facts and circumstances of the case, the petitioner is directed to make an application before the respondent authorities for the release of the passport of the son of the petitioner or fresh application for passport. On receipt of such an application from the petitioner, the respondent authority shall decide the same in accordance with law as expeditiously as possible.

With the above direction, the petition stands disposed of. Rule is made absolute to the above extent with no order as to costs.

(K. S. JHAVERI, J.)

/phalguni/